

Attorney Docket No. 47563.0017

Application No. 10/726,826

Amendments to the Drawings:

The attached 7 sheets of drawings, showing Figs. 1A-7 and 10-11 are being provided to replace the original drawing sheets that show Figs. 1A-7 and 10-11. Figs. 1A-6 have been amended to add the term "(Conventional)" below each Figure number. Figs. 7 and 10 have been amended to change the lead line for reference numeral 736 to correspond with the accompanying description in the specification. See specification, pg 11, lines 10-19.

Attachment: Replacement Sheets (7 sheets)

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REMARKS

Applicants thank the Examiner for the detailed Office Action dated 5 January 2007. Applicants respectfully request reconsideration of the present application in view of the reasons that follow.

Claims 35-39 were pending in the application. Claims 35, 37, and 39 are currently being amended. Claims 41-77 are being added. After amending the claims as set forth above, claims 35-39 and 41-77 are now pending in this application.

For simplicity and clarity purposes in responding to the Office Action, Applicants' remarks primarily focus on the rejections applied to the independent claims (*i.e.*, claims 35 and 37) as outlined in the Office Action with the understanding that the dependent claims are patentable for at least the same reasons (and in most cases other reasons) that the independent claims are patentable. Applicants expressly reserve the right to argue the patentability of the dependent claims separately in any future proceedings.

Objection to the Drawings

On page 2 of the Office Action, the Examiner objected to Figs. 1A-6. In response, Applicants have amended Figs. 1A-6 to add the term "(Conventional)" below each of these Figure numbers. Accordingly, Applicants respectfully request that this objection be withdrawn.

Claim Rejections – 35 U.S.C. § 102

Independent Claim 35

On page 3 of the Office Action, independent claim 35 was rejected under 35 U.S.C. § 102(b) as being unpatentable over U.S. Patent No. 5,662,681 to Nash et al. ("Nash"). Applicants respectfully traverse the rejection. Nash does not identically disclose the subject matter recited in independent claim 35.

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Applicant respectfully submits that the Examiner has interpreted the term "multi-level nest" in claim 35 in a way that is inconsistent with the specification. See MPEP § 2111 (explaining that during patent examination, claims should be given their broadest reasonable interpretation *consistent* with the patent specification). The specification expressly distinguishes tissue puncture closure devices that have multi-level nests from devices such as those shown in Figs. 1-6 of the specification that do not have a multi-level nest. Therefore, an interpretation of the term "multi-level nest" that is consistent with the specification does not include the conventional nest design shown in Figs. 1-6. Since the nest design of Fig. 1B is very similar to that shown in Fig. 1 of Nash, a proper interpretation of the term "multi-level nest" also does not include the design of Nash.

For the above reasons, Applicants respectfully submit that independent claim 35 and the claims which are dependent thereon are not anticipated by the cited reference and are patentable.

Independent Claim 37

On pages 3 and 4 of the Office Action, independent claim 37 and various dependent claims were rejected under 35 U.S.C. § 102(b) as being unpatentable over either Nash or U.S. Patent No. 5,662,681 to Bonutti. Applicants respectfully traverse the rejections. Neither Nash nor Bonutti identically disclose the subject matter recited in independent claim 37.

Applicant respectfully submits that neither Nash nor Bonutti identically disclose the combination of elements recited in independent claim 37, as amended. For example, independent claim 37, as amended, recites a "method of reducing anchor shuttle in a subcutaneous tissue puncture sealing device" including, among other elements, "providing a gap that extends between a carrier tube of the tissue puncture sealing device and the anchor in a direction that is *transverse* to the carrier tube, the gap being created by a multi-level nest in the

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carrier tube or an indentation in the anchor," which is not identically disclosed by either reference. In particular, Applicants note that what the Examiner is apparently interpreting as the gap in Nash and Bonutti extends between the carrier tube and the anchor in a direction that is *longitudinal* to the carrier tube. Applicant also notes that the discussion of the meaning of the term "multi-level nest" above also applies to claim 37. This is an additional reason why claim 37 does not read on Nash.

For the above reasons, Applicants respectfully submit that independent claim 37 and the claims which depend therefrom are not anticipated by the cited reference and are patentable.

Claim Rejections – 35 U.S.C. § 103(a)

Dependent Claim 36

On page 5 of the Office Action, dependent claim 36 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Nash in view of Bonutti. Applicants respectfully submit that dependent claim 36 is patentable for at least the same reasons as independent claim 35. Accordingly, Applicants request the Examiner to withdraw the rejection of these claims under 35 U.S.C. § 103(a).

New Claims

Applicants have added new claims 41-77, of which claims 44, 49, 55, 63, 67, and 71 are in independent format. The new claims are directed to a "method of sealing a tissue puncture" using a "tissue puncture closure device." Applicants submit that all of the new independent claims refer to a tissue puncture closure device that includes a carrier tube, a sealing plug, and an anchor, which is not shown by Bonutti. The new independent claims recite the following limitations that do not read on Nash: claim 44 – the carrier tube including a first surface that is in contact with the anchor and a second surface that is adjacent to the anchor and recessed in the

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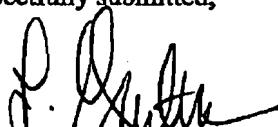
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carrier tube relative to the first surface; claim 49 – the anchor and the carrier tube being positioned so that a gap is formed between the anchor and the carrier tube in a direction that is transverse to the carrier tube; claim 55 – the carrier tube including a first surface that is in contact with the anchor and a recess positioned adjacent to the anchor, the recess extending further into the carrier than the first surface; claim 63 – moving a tip of an insertion sheath underneath the anchor to deploy the anchor; claim 67 – the anchor being indented so that a gap is formed between the anchor and the carrier tube; claim 71 – the carrier tube and the anchor being in contact with each other, the carrier tube including a recess positioned adjacent to one end of the anchor.

Applicants respectfully put the Patent Office and all others on notice that all arguments, representations, and/or amendments contained herein are only applicable to the present patent application and should not be considered when evaluating any other patent or patent application including any patents or patent applications which claim priority to this patent application and/or any patents or patent applications to which priority is claimed by this patent application.

Applicants respectfully submit that the present application is in condition for allowance. Applicants request reconsideration and allowance of the pending claims. The Examiner is invited to contact the undersigned by telephone if the Examiner needs anything or if a telephone interview would advance the prosecution of the present application.

Respectfully submitted,

By 
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Date 7 May 2007